

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D. C. 20554

JUL 20 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of:

Petition by the United States Department of  
 Transportation for Assignment of an Abbreviated  
 Dialing Code (N11) to Access Intelligent  
 Transportation System (ITS) Services  
 Nationwide

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File No. NSD-L-99-24

CC Docket No. 92-105

**COMMENTS**

BellSouth Corporation,<sup>1</sup> on behalf of its affiliated companies, by counsel, hereby files its comments in response to the Public Notice released on April 20, 1999.<sup>2</sup> In these comments, BellSouth neither opposes nor supports the requested assignment. Rather, in order to aid the Commission in its decision making process, BellSouth describes the current scope and extent of its tariffed local calling area based abbreviated dialing service for information service providers (ISPs) that utilize third party assigned "N11" number combinations. BellSouth further describes the effect that a nationwide assignment or reservation would have on existing uses.

<sup>1</sup> BellSouth Corporation (BSC) is a publicly traded Georgia corporation that holds the stock of companies which offer local telephone service, provide advertising and publishing services, market and maintain stand-alone and fully integrated communications systems, and provide mobile communications and other network services world-wide. BellSouth's largest subsidiary, BellSouth Telecommunications, Inc., serves local residential and business customers in nine southern states including Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee and is the BellSouth entity that provides the local calling area based service for information service providers described in these comments.

<sup>2</sup> *Petition by the United States Department of Transportation for Assignment of an Abbreviated Dialing Code (N11) to Access Intelligent Transportation System (ITS) Services Nationwide*, NSD-L-99-24, CC Docket 92-105, Public Notice DA 99-761 (April 20, 1999).

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## BACKGROUND

On March 6, 1992, BellSouth filed a petition for declaratory ruling asking the Commission to declare that assignment of certain three-digit codes for access to local pay per call type information services would be consistent with the Communications Act and Commission policies. On May 4, 1992, the Commission's General Counsel informed BellSouth that there appears to be no regulatory or legal impediment prohibiting BellSouth from currently assigning N11 codes in a reasonable, non-discriminatory manner, i.e., such as the use of first-come, first-serve procedures.<sup>3</sup> On that same date, the Commission issued its Notice of Proposed Rulemaking in CC Docket No. 92-105.<sup>4</sup> In its Notice, the Commission advised that it would not act further on BellSouth's petition and that any such N11 assignments would be subject to the outcome of any rules adopted therein.<sup>5</sup> The Commission tentatively concluded that 211, 311, 511 and 711 should be available for abbreviated dialing and that 611 and 811 should also be available at least wherever an exchange carrier does not currently use those codes for the purposes permitted.<sup>6</sup> The Commission also tentatively concluded that N11 codes should be available for abbreviated dialing unless and until it becomes necessary to use these codes as area

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<sup>3</sup> Letter from Robert L. Pettit, FCC General Counsel, to David J. Markey, Vice President, BellSouth (May 4, 1992).

<sup>4</sup> *The Use of N11 Codes and Other 92-105 Abbreviated Dialing Arrangements*, Notice of Proposed Rulemaking, CC Docket No. 92-105, 7 FCC Rcd 3004 (1992).

<sup>5</sup> *Id.* n.1.

<sup>6</sup> *Id.* at 3005.

codes.<sup>7</sup> In 1997, the Commission granted petitions to reserve 311 and 711 for nationwide use.<sup>8</sup>

In 1998, the Commission sought comment on the nationwide reservation of 211.<sup>9</sup>

### CURRENT USES OF “511”

Since requesting its declaratory ruling in 1992, BellSouth has made an abbreviated dialing service available as tariffed, local calling area based service to information service providers (ISPs) in the states of Georgia, Florida, Louisiana, Tennessee and Alabama. An N11 number has been made available to the ISPs under the auspices of state public service commissions in order to ensure non-discriminatory availability and assignment of the resource. In the cover letter filed with this petition, the United States Secretary of Transportation has suggested that “511” be assigned for the use requested in the petition, an access code link to intelligent transportation system (ITS) technologies.<sup>10</sup> “511” has been assigned and is currently in use by ISPs in the following localities within Alabama, Florida, and Georgia:

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<sup>7</sup> *Id.*

<sup>8</sup> *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket 92-105, 12 FCC Rcd 5572 (1997), *recon. pending* (“311/711 Order”).

<sup>9</sup> *Request by the Alliance of Information and Referral Systems, United Way of America, United Way 211 (Atlanta, GA), United Way of Connecticut, Florida Alliance of Information and Referral Services, Inc., and Texas I&R Network for Assignment of 211 Dialing Code*, NSD-L-98-80, Public Notice DA 98-1571 (August 6, 1998).

<sup>10</sup> Hon. R. E. Slater to Wm. E. Kennard, February 25, 1997 at 2. There currently exist, at most, two N11 Codes (211, 511), not currently assigned on a national basis or otherwise widely used for known and specific purposes. Report and Recommendation of the Abbreviated Dialing Ad Hoc Working Group to the North American Numbering Counsel (NANC) Regarding Abbreviated Dialing Arrangements, Sept. 28, 1998 at § 7.1, p. 10.

Birmingham, Alabama  
Bunnell, Florida  
Chipley, Florida  
Daytona Beach, Florida  
Ft. Lauderdale, Florida  
Key Largo, Florida  
Lake City, Florida

Miami, Florida  
Pamona Park, Florida  
Pierson, Florida  
Port St. Lucie, Florida  
St. Augustine, Florida  
Sugarloaf Key, Florida  
Atlanta, Georgia<sup>11</sup>

In addition, the Louisiana Public Service Commission has designated 511 for use throughout the state of Louisiana for ambulance service providers.<sup>12</sup>

Because of the current fill rate, there are no “spare” N11 codes available for entities that might be displaced by an order reserving or recalling “511” in Daytona Beach, Florida, Ft. Lauderdale, Florida, Miami, Florida, or Atlanta, Georgia. If the Louisiana Public Service Commission requests carriers to revise current tariffs to reflect an FCC action assigning 511 in accordance with the pending petition, it appears that there will be no other N11 code available for assignment in Louisiana. Nor, at this time, does there appear to be an alternative abbreviated dialing arrangement available for current N11 users.<sup>13</sup>

### THE INSTANT PETITION

When the Commission reserves a previously “unassigned” N11 Service Code for a particular use nationwide, it makes a regulatory judgment as to the best use of a limited resource

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<sup>11</sup> The 511 service in Atlanta is a joint venture between Cox Communications Group and BellSouth Advertising and Publishing Company.

<sup>12</sup> These providers used to use “311,” however, following issuance of the Commission’s *311/711 Order*, these users were awarded 511 so that 311 would be available to local jurisdictions for non-emergency police services.

<sup>13</sup> NANC Report and Recommendation Regarding Abbreviated Dialing Arrangement, *supra*, n. 10 at § 12.0, pp. 17-18. All ISPs taking “N11” service from BST, including 511 service, purchased their service with the express understanding that the numbers were subject to recall.

in a competitive marketplace. BellSouth has always urged the Commission to be cautious when analyzing requests for nationwide reservations:

Even in certain circumstances where an N11 dialing arrangement might have certain superficial appeal, its cost and complexities might render that particular application to be the non-optimal solution to the perceived need. Worse, any limitation or reservation of N11 codes for specific, non-optimal applications carries a hidden cost. Other applications, while not having the same superficial appeal, might make more efficient use of the particular resource.<sup>14</sup>

Commercial uses of N11 codes can serve the public interest.<sup>15</sup> Nevertheless, it appears that the Commission has never seriously considered whether local commercial availability of N11 codes (which would not preclude noncommercial use of these resources, such as the current use of 211 by the United Way in Atlanta), may be the most efficient use of the resource. If the Commission determines that it is in the public interest to continue to remove N11 dialing arrangements from the market place through nationwide assignments of previously unassigned N11 Service Codes, the Commission should at the very least decide unresolved issues arising out of such nationwide assignments of N11 Service Codes.

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<sup>14</sup> *Alliance of Information and Referral Systems, et al.*, NSD File No. L-98-80, BellSouth Comments, filed Sept. 8, 1998, at 4. See also *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, BellSouth Comments filed October 10, 1996 at 3-4; *Requests of Federal Agencies and Others for the Assignment of N11 Codes*, IAD File No. 94-101, BellSouth Comments, filed August 19, 1994, and BellSouth Reply Comments, filed September 23, 1994; *Use of N11 Codes for Access to Telecommunications Relay Services*, IAD File No. 93-02, BellSouth Comments, filed November 22, 1993, and BellSouth Reply Comments filed December 8, 1993.

<sup>15</sup> In comments filed in a separate proceeding, BellSouth showed that an ISP in Atlanta raised substantial amounts of material aid for flooding relief efforts in south central Georgia. BellSouth Comments, IAD File No. 94-101 (filed Aug. 19, 1994) at 7, n. 13. Indeed, one of the current petitioners obtained its 211 service because it had been made available by a local exchange carrier under tariff on a non-discriminatory basis to all ISPs.

First, the Commission should clarify that, by reserving these dialing arrangements nationwide, it has not ordered a national recall of these arrangements.<sup>16</sup> Second, the Commission should clarify whether ISPs who currently provide 311 or 711 (and, if the Commission should ultimately so decide, 211 and 511) abbreviated dialing services are current users who are entitled to continue their use. The Commission should further clarify whether, where an N11 Service Code is not the subject of a future uniform nationwide implementation date, the code may continue to be assigned by service providers and states for non-conforming local uses subject to discontinuance on short notice.<sup>17</sup> Finally, the Commission should clarify that whenever a local use “N11” ISP is required to relinquish its particular dialing arrangement in response to FCC or local government action, that ISP may be given preference with respect to any remaining unassigned N11 codes, or, where there are no N11 codes available, may be given preference for the next available N11 assignment.<sup>18</sup>

Because any nationwide assignment of an N11 Service Code in connection with a social welfare use will likely be compared with the longstanding association of the 911 Service Code with well established emergency services to the public, the Commission should also make clear in any order granting the instant petition that it is not imposing any implementation deadline, network architecture, or cost recovery requirements pertaining to the use of an abbreviated dialing code for ITS access; nor indeed is the Commission requiring that carriers make available a service where one is not currently available. The time frames necessary to satisfy a request for an abbreviated dialing code for ITS access will necessarily vary from locality to locality based on

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<sup>16</sup> *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105, BellSouth Petition for Clarification and Reconsideration (March 28, 1997) at 3.

<sup>17</sup> *Id.* at 4-5.

<sup>18</sup> *Id.* at 5.

specific local conditions, including whether a tariffed service currently exists, the nature of the entity requesting the service, and the scope of service requested. Implementation should therefore be left to the negotiation of the entities concerned.<sup>19</sup>

Although there are many unresolved issues arising out of the Commission's *311/711 Order* that should be resolved now, the Commission should, if it decides to grant the instant petition, follow precedent it established therein with respect to competing claims to the resource. In the case of multiple requests for an abbreviated dialing code for ITS access in the same locality, the requests should be resolved on a first come, first served basis, with any conflicts resolved by local authorities.<sup>20</sup>

Particularly with respect to wireless carriers, the Commission should clarify that any nationwide reservation of an abbreviated dialing code for ITS access for the purpose set forth in the underlying petition is not intended to prohibit carriers from charging air time for such calls, or in anyway intended to regulate the amount of such charges. Nor should any Commission action be construed in anyway to interfere with wireless carriers' provision of 911 emergency services.

## CONCLUSION

Although the use for an N11 code described in the pending petition is obviously different than the services described in connection with earlier Commission reservations of the 311 and 711 Service Codes, and a pending request for nationwide reservation of the 211 Service Code,

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<sup>19</sup> The Commission should also clarify that wireless carriers should not be required to provide such capabilities to non-subscribers or roamers in the absence of a roaming agreement, and that CMRS providers can set their own rates for subscriber calls.

<sup>20</sup> *311/711 Order* at 5585.

the potential nationwide reservation of further N11 Service Codes raises substantially similar issues. The Commission should immediately decide the pending Petitions for Clarification and Reconsideration in CC Docket No. 92-105, and, in the context of the instant petition, clarify issues relating to current uses of the relevant abbreviated dialing formats as set forth herein.

Respectfully submitted,

BELLSOUTH CORPORATION

  
M. Robert Sutherland  
Theodore R. Kingsley

Its Attorneys

Suite 1700  
1155 Peachtree Street, N.E.  
Atlanta, Georgia 30309-3610  
(404) 249-2608

Date: July 20, 1999



## CERTIFICATE OF SERVICE

I do hereby certify that I have this 20th day of July, 1999, served the following parties to this action with a copy of the foregoing *COMMENTS*, reference File NSD-L-99-24 and CC Docket No. 92-105, by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties as set forth below.

Magalie Roman Salas, Commission Secretary\*  
Portals II  
445 12<sup>th</sup> Street, SW  
Suite TW-A235  
Washington, DC 20554

Al McCloud\*  
Network Services Division  
Portals II  
445 12<sup>th</sup> Street, SW  
Room 6-A320  
Washington, DC 20554

International Transcription Service\*  
1231 20<sup>th</sup> Street, NW  
Washington, DC 20037

  
Lenora Biera-Lewis

\* BY HAND DELIVERY